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IN THE HIGH COURT OF CHHATTISGARH AT- BILASPUR

Writ Pitition No. 4988 /05 Dated : /09/05

B.R. Markandey S/o Late Shayam Lal Markanday
Age - 56 years, Working as a Head Master
in Middile School - Sirry Block - Gundardehi
Distt. - Durg (C.G) ..... Pititioner

VERSES

1. Govt. of Chhattisgarh State
Through - Secretary, Education Department
D.K.S. Bhawan, G.E. Road Raipur (C.G.)

2. Govt. of Chhattisgarh State
Through - Collector - Durg

3. District Education officer Durg
Civil line Road Durg (C.G.)

4. Block Education officer - Gundardehi
Teh. - Gundardehi Distt. Durg (C.G.)

No. 1 to 4 Respondent

P.R. No. 5022105
Presented by Shri Sanjeev Sahu
dated 26/9/05

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Writ Pitition under Artiele 226 and 227 of Constitution of India and read with section 19 of Administrative Tribunal Act. 1985.

(20)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 4988/05 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

19/10/2005

Shri C.R. Sahu, learned counsel for the petitioner.

Shri P.S. Koshy, Dy.Advocate General for the respondents on advance copy.

Heard.

The petitioner, who is presently working on the post of Headmaster in Govt. Middle School, Sirry, Block Gundardehi and has been transferred from Sirry to Middle School, Rahud, Block Gundardehi, has challenged the validity of his transfer order dated 31/8/2005.

Learned counsel for the petitioner submits that the petitioner is a heart patient and the transferred place of the petitioner is at a distance of 30 kms from his present place of posting and is an interior place, therefore, the emergency medical services may not be available to the petitioner at his transferred place of posting.

Except this ground, learned counsel for the petitioner has not pressed any other grounds in this writ petition.

The Apex Court while dealing with the matter of ***Kendriya Vidyalaya Sangathan –V- Damodar Prasad Pandey, 2004 AIR SCW 5563*** referring to the various decisions has observed vide para 4 as follows:

> "Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any prescribed norms of principles governing the transfer (See ***Ambani Kanta Ray Vs. State of Orrissa).*** Unless the order

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of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (See ***Union of India Vs. S.L. Abbas).*** Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of Inida & others Vs. Janardan Debanath & another,*** it was observed as follows:

> "No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of *mala-fide* exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in *National Hydroelectric Power Corpn. Ltd. Vs. Shri Bhagwan.*"

In the facts and circumstances of the case, since the petitioner is working on a transferable post and he has not stated about any malafide or about infringement of any statutory rule in the matter of his transfer, I am not inclined to interfere in the impugned order of transfer of the petitioner.

(31)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 4988/05 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

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	The petition has no merit and the same is dismissed. However, the petitioner is at a liberty to file a detailed representation before the competent authority on his health ground and if such a representation is filed, the competent authority will consider and dispose of the same in accordance with law. Sd/- Sunil Kumar Sinha Judge	

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